IN THE SUPREME COURT OF THE STATE OF NEVADA

DOUGLAS ALEXANDER SEHER,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

No. 38377

FILED

DEC 12 2001

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of one count of uttering a forged instrument. The district court sentenced appellant to a prison term of 12 to 32 months.

Appellant's sole contention is that the district court erred by admitting appellant's statements made in response to police questioning and without the benefit of Miranda[1] warnings.

Miranda warnings are required only where there has been such a restriction on a person's freedom as to render him "in custody."[2] An individual is deemed to be "in custody" "where there has been a formal arrest, or where there has been a restraint on freedom of movement of the degree associated with a formal arrest such that a reasonable person would not feel free to leave."[3] To determine whether a custodial interrogation has taken place, a court must consider the totality of circumstances, including "(1) the site of the interrogation, (2) whether the investigation has focused on the subject, (3) whether the objective indicia of arrest are present, and (4) the length and form of questioning."[4] No single factor is dispositive.[5] A district court's determination as to whether

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[1]Miranda v. Arizona, 384 U.S. 436 (1966).

[2]Oregon v. Mathiason, 429 U.S. 492, 495 (1977).

[3]State v. Taylor, 114 Nev. 1071, 1082, 968 P.2d 315, 323 (1998); see also California v. Beheler, 463 U.S. 1121, 1125 (1983).

[4]Alward v. State, 112 Nev. 141, 154-55, 912 P.2d 243, 252 (1996).

[5]Id. at 154, 912 P.2d at 252.

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a defendant is "in custody" will not be disturbed where there is substantial evidence to support it.[6]

In the instant case, appellant was questioned in a casino security office, the door to the office was open, appellant was not handcuffed, the questioning was of short duration and the questioning was conducted in a conversational manner. Accordingly, we conclude that the district court's finding that appellant was not in custody is supported by the record, and appellant's statements were therefore properly admitted.

Having considered appellant's contention and concluded it is without merit, we

ORDER the judgment of conviction AFFIRMED.[7]

_____, J.
Young

_____, J.
Agosti

_____, J.
Leavitt

cc: Hon. Jack B. Ames, District Judge
Attorney General/Carson City
Elko County District Attorney
Elko County Public Defender
Elko County Clerk

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[6]Mitchell v. State, 114 Nev. 1417, 1423, 971 P.2d 813, 817 (1998) (citing Alward, 112 Nev. at 154, 912 P.2d at 252).

[7]We have considered all proper person documents filed or received in this matter, and we conclude that the relief requested is not warranted.